

## **REMARKS:**

### **I. Introduction**

In the Office Action mailed on April 12, 2005, the Examiner rejected claims 1 to 6 and 10 to 14. The present amendment cancels claim 11, amends claims 1 to 6, 10 and 11 to 14 and adds new claims 15 to 17. Accordingly, claims 1 to 6, 10, and 11 to 17 are now pending in this application.

### **II. Claim Rejection Based on 35 U.S.C. § 102(b)**

The Examiner rejected claims 1 to 6 and 10 to 14 under 35. U.S.C. § 103(a) as anticipated by Yosomiya (JP 05213358).

Yosomiya is non-analogous art. The present invention relates to a deep-drawn plastic plant pot that solves the problem of prior deep-drawn plastic plant pots that are difficult to remove from the forming tool. In contrast, Yosomiya discloses a plastic container (2) holding fruit (4) and jelly (5) and covered by a lid (3). Since small plastic containers for food are provided with thin and weak walls, there is no problem when removing such containers from a deep-drawn forming tool because they easily flex or deform to come off of the forming tool.

Even assuming Yosomiya is analogous art, the containers disclosed by Yosomiya do not disclose or reasonably suggest the present invention as claimed. The containers (2) of Yosomiya are provided with a few protuberances (10) circumferentially spaced apart about the circumference of the side wall (11) that secure the distance of the containers (2) in a stack. First, these protuberances (10) do not form a wave shape as defined by the present invention because the protuberances (11) do not "soften a cross-sectional stiffness of the rim area for improved removal from a deep drawing mold". Such protuberances (10) actually stiffen the thin and weak walls rather than soften the cross-sectional stiffness. However, the container (2) can still be removed from the forming tool because the few protuberances are surrounded by the thin weak walls which can still resiliently deflect around the protuberances (10). Second, these protuberances (10) form spaced apart lower support surfaces 15 rather than a continuous second ledge. In between the protuberances there is no support surface of any kind (best shown in figure 3). Thus, there is a small contact area formed by the protuberances (11) which is acceptable for small food containers but is not adequate for large stacks of relatively heavy and rigid plastic plant pots.

Independent claim 1, and claims dependent therefrom, are allowable because they each include the limitations “wherein the intermediate support area (9) has a wave shape at least at one of the first and second ends which softens a cross-sectional stiffness of the rim area for improved removal from a deep drawing mold” and “wherein the second ledge (8) continuously extends uninterrupted over an entire periphery of the plant pot.” No prior art of record reasonably discloses or suggests the present invention as defined by claim 1. Reconsideration and withdrawal of the rejection is requested.

### **III. Claim Rejection Based on 35 U.S.C. § 103(a)**

The Examiner rejected claims 1 to 6 and 10 to 14 under 35. U.S.C. § 103(a) as unpatentable over Edwards (US 3,091,360) in view of Eyles (US 3,353,707) and further in view of Pearce –Smith (GB 859,964).

Edwards is non-analogous art. The present invention relates to a deep-drawn plastic plant pot that solves the problem of prior deep-drawn plastic plant pots that are difficult to remove from the forming tool. In contrast, Edwards discloses disposable plastic drinking cups. Since disposable plastic drinking cups are provided with thin and weak walls, there is no problem when removing such cups from a deep-drawn forming tool because they easily flex or deform to come off of the forming tool. The '360 patent is replete with disclosures that the cups have thin weak walls that are resiliently flexible. For example, Edwards suggests a conical configuration of the bottom to prevent sagging of the bottom when the cup is filled with coffee or the like. Column 2, lines 66 to 69.

Even assuming Edwards is analogous art, the plastic drinking cups disclosed by Edwards do not disclose or reasonably suggest the present invention as claimed. The plastic drinking cup (10) is provided with a back-tapered ring (30) having a plurality of spaced apart protuberances or nibs (36). These protuberances (36) do not form a wave shape as defined by the present invention because the protuberances (36) do not “soften a cross-sectional stiffness of the rim area for improved removal from a deep drawing mold”. Such protuberances (36) actually stiffen the thin and weak walls rather than soften their cross-sectional stiffness. See column 3, line 57 to 59. However, the cup (10) can still be removed from the forming tool because the ring (30) is surrounded by the thin weak walls which resiliently deflect about the ring (30). Even this back-tapered ring (30) is not able to provide support for a high and heavy

stack of containers when the walls are weak. The nibs (36) are provided so that spaces (38) between the nibs (36) allow air channels for passing air therethrough so that a bottom cup can be easily removed from a stack of the cups. In contrast, deep-drawn plastic plant pots have relatively rigid walls that do not easily deflect when removing the pots from the forming tool. This is the very heart of the problem which the present invention solves. The wave-shape of the present invention softens the cross-sectional stiffness rather than increasing the cross-sectional stiffness like the cited cups of Edwards.

Applicant acknowledges that a drawing can disclose matter not described in the text. In the present instance, however, the structure of the cited drinking cup is very different from the claimed structure as described above. One skilled in the art would not regard the shape of Edwards as softening the cross-sectional stiffness of the ring area for improved removal from the forming tool. Additionally, Eyles nor Pearce-Smith compensate for the failures of Edwards.

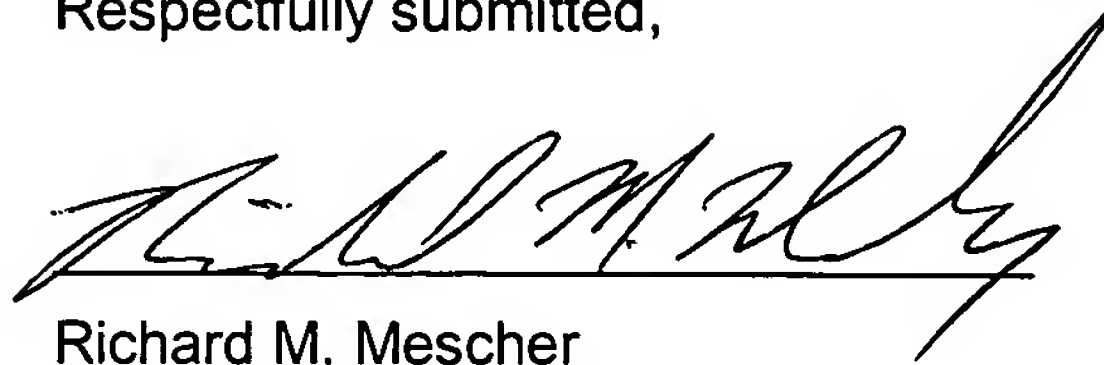
Independent claim 1, and claims dependent therefrom, are allowable because they each include the limitation “wherein the intermediate support area (9) has a wave shape at least at one of the first and second ends which softens a cross-sectional stiffness of the rim area for improved removal from a deep drawing mold.” No prior art of record reasonably discloses or suggests the present invention as defined by claim 1. Reconsideration and withdrawal of the rejection is requested.

#### **IV. Conclusion**

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is found that that the present amendment does not place the application in a condition for allowance, Applicant's undersigned attorney requests that the Examiner initiate a telephone interview to expedite prosecution of the application.

If there are any fees resulting from this communication, please charge same to our  
• Deposit Account No. 16-2326.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard M. Mescher", written over a horizontal line.

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